

VPI Immingham OCGT Project

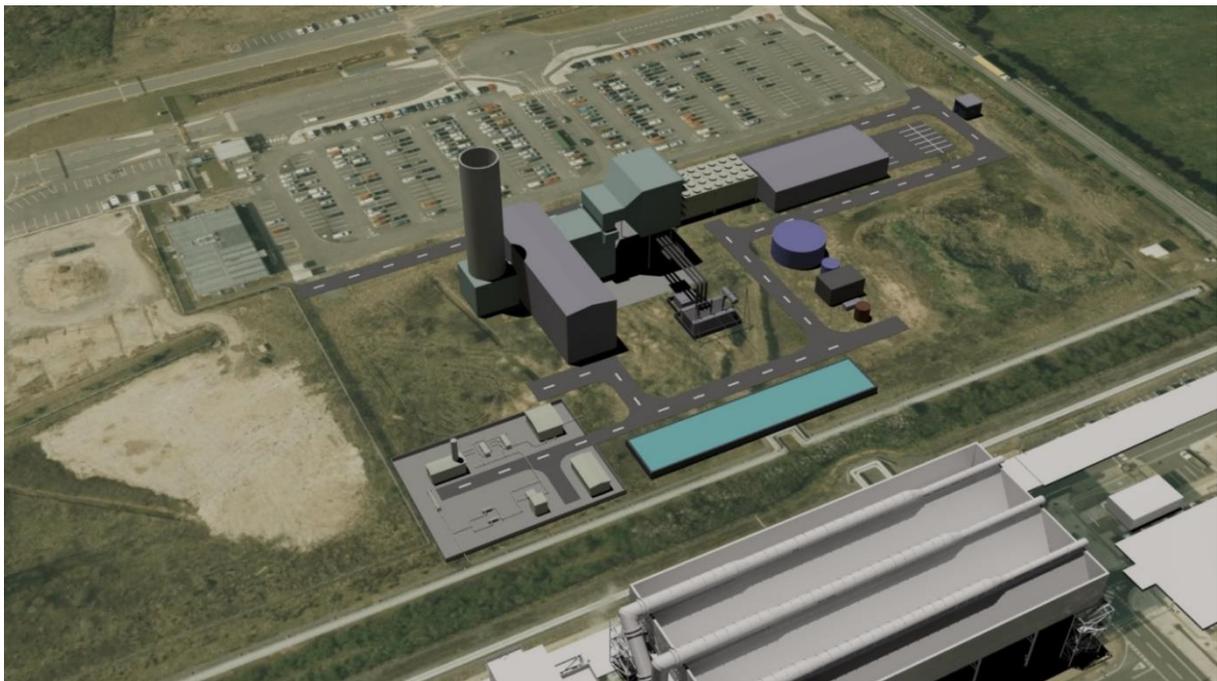
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The Immingham Open Cycle Gas Turbine Order

Land at and in the vicinity of the existing VPI Immingham Power Station, South Killingholme, North Lincolnshire, DN40 3DZ

The Applicant's Written Submission of Oral Case – Environmental Hearing

Examination Deadline 3



Applicant: VPI Immingham B Ltd

Date: October 2019

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GLOSSARY

Abbreviation	Description
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Access	Work No. 2 – access works comprising access to the OCGT Power Station Site and access to Work Nos. 3, 4, 5 and 6;
Access Site	The land required for Work No.2.
AGI	Above Ground Installation – installations used to support the safe and efficient operation of the pipeline; above ground installations are needed at the start and end of a gas pipeline and at intervals along the route.
Applicant	VPI Immingham B Ltd
Application	The Application for a Development Consent Order made to the Secretary of State under Section 37 of the Planning Act 2008 in respect of the Proposed Development, required pursuant to Section 31 of the Planning Act 2008 because the Proposed Development is a Nationally Significant Infrastructure Project under Section 14(1)(a) and Section 15 of the Planning Act 2008 by virtue of being an onshore generating station in England of more than 50 Megawatts electrical capacity.
Application Documents	The documents that make up the Application (as defined above).
CHP	Combined Heat and Power – A technology that puts to use the residual heat of the combustion process after generation of electricity that would otherwise be lost to the environment.
CTMP	Construction Traffic Management Plan – a plan outlining measures to organise and control vehicular movement on a construction site so that vehicles and pedestrians using site routes can move around safely.
CWTP	Construction Workers Travel Plan – a plan managing and promoting how construction workers travel to a particular area or organisation. It aims at promoting greener, cleaner travel choices and reducing reliance on the private car.
dB	decibel
DCO	A Development Consent Order made by the relevant Secretary of State pursuant to The Planning Act 2008 to authorise a Nationally Significant Infrastructure Project. A DCO can incorporate or remove the need for a range of consents which would otherwise

Abbreviation	Description
	be required for a development. A DCO can also include powers of compulsory acquisition.
EA	Environment Agency – a non-departmental public body sponsored by the United Kingdom government's Department for Environment, Food and Rural Affairs (DEFRA), with responsibilities relating to the protection and enhancement of the environment in England.
EH	English Heritage – (now Historic England) – a non-departmental public body of the British Government responsible for heritage protection and management of a range of historic properties.
EHO	Environmental Health Officer – practitioners responsible for carrying out measures for protecting public health, including administering and enforcing legislation related to environmental health.
EIA	Environmental Impact Assessment – a term used for the assessment of environmental consequences (positive or negative) of a plan, policy, program or project prior to the decision to move forward with the proposed action.
Electrical Connection Site	The land required for Work No.5.
ES	Environmental Statement – a report in which the process and results of an Environmental Impact Assessment are documented.
Existing AGI	The exiting AGI within the Existing VPI CHP Site.
Existing AGI Site	The land comprising the exiting AGI within the Existing VPI CHP Site.
Existing Gas Pipeline	An existing underground gas pipeline owned by VPI LLP connecting the Existing AGI Site to an existing tie in the National Grid (NG) Feeder No.9 located to the west of South Killingholme.
Existing Gas Pipeline Site	The land comprising the Existing Gas Pipeline and a stand-off either side of it.
Existing VPI CHP Plant	The existing VPI Immingham Power Station. This facility is a gas-fired combined heat and power ('CHP') plant near Immingham providing steam and electricity to the neighbouring refineries and electricity to the National Grid.
Existing VPI CHP Plant Site	The land comprising the Existing VPI CHP Plant, located immediately to the south of the Main OCGT Power Station Site.
Flood Zone 1	Land with an Annual Exceedance Probability of less than 0.1% risk from fluvial flooding.
Flood Zone 2	Land with an Annual Exceedance Probability of between 0.1% and 1% risk from fluvial flooding.
Flood Zone 3a	Land having a 1 in 100 or greater annual probability of river flooding or land having a 1 in 200 or greater annual probability of sea flooding.
Flood Zone 3b	An area defined as the functional floodplain, that the area where water has to flow or be stored in the event of a flood. Land which would flood with a 1 in 20 (5%) annual probability or greater in any year, or is designed to flood in a 0.1% event should provide the starting point for designation of Flood Zone 3b.

Abbreviation	Description
FRA	Flood Risk Assessment – the formal assessment of flood risk issues relating to the Proposed Development. The findings are presented in an appendix to the Environmental Statement.
Gas Connection	Work No. 4 – the new underground and overground gas pipeline
Gas Connection Site	The land required for Work No.5.
GCN	Great Crested Newts
GW	Gigawatts – unit of power.
HA	Highways Agency (now known as Highways England) – government owned company responsible for managing the strategic road network in England.
ha	Hectare – unit of measurement.
HE	Historic England – an executive non-departmental body of the British Government tasked with protecting the historical environment of England.
HRA	Habitats Regulations Assessment – the assessment of the impacts of implementing a plan or policy on a Natura 2000 site.
km	Kilometre – unit of distance.
Local Nature Reserve or LNR	A non-statutory site of local importance for wildlife, geology, education or public enjoyment.
LPA	Local Planning Authority
LSE	Likely significant effect, a term used in the ES to describe when effects on a receptor are predicted to be significant
LVIA	Landscape and Visual Impact Assessment
Lw	Sound Power Level
LWS	Local Wildlife Site
m	Metres – unit of distance.
MW	Megawatts – unit of energy.
NATA	New Approach to Appraisal
NEILDB	North East Lincolnshire Local Drainage Board
NELC	North East Lincolnshire Council
NG	National Grid
NGG	National Grid Gas plc
NGET	National Grid Electricity Transmission plc
NLC	North Lincolnshire Council
NPPF	The National Planning Policy Framework – Policy Framework which was introduced in March 2012 and updated in July 2018. The NPPF is part of the Government's reform of the planning system intended to make it less complex, to protect the environment and to promote sustainable growth. It does not contain any specific policies on Nationally Significant Infrastructure Projects but its policies may be taken into account in decisions on DCOs if the Secretary of State considers them to be both important and relevant.
NPS	National Policy Statements – statements produced by Government under the Planning Act 2008 providing the policy framework for Nationally Significant Infrastructure Projects. They include the Government's view of the need for and objectives for the development of Nationally Significant Infrastructure Projects in

Abbreviation	Description
	a particular sector such as energy and are the primary matter against which applications for NSIPs are determined.
NSER	No Significant Effects Report – for the Habitats Regulations Assessment (HRA).
NSIP	Nationally Significant Infrastructure Project – Defined by the Planning Act 2008 and including projects relating to energy (including generating stations, electric lines and pipelines); transport (including trunk roads and motorways, airports, harbour facilities, railways and rail freight interchanges); water (dams and reservoirs, and the transfer of water resources); waste water treatment plants and hazardous waste facilities. These projects are only defined as nationally significant if they satisfy a statutory threshold in terms of their scale or effect. The Proposed Development is a NSIP.
NSRs	Noise Sensitive Receptors – locations or areas where dwelling units or other fixed, developed sites of frequent human use occur.
NTS	Non-Technical Summary – this document is a summary of the Environmental Statement written in non-technical language for ease of understanding.
OCGT	Open Cycle Gas Turbine – a combustion turbine plant fired by gas or liquid fuel to turn a generator rotor that produces electricity.
OCGT Power Station	Work No. 1 – an OCGT power station with a gross capacity of up to 299MW.
OCGT Power Station Site	The land required for Work No.1.
Order	Immingham Open Cycle Gas Turbine Order
Order land	The area over which powers of compulsory acquisition or temporary possession are sought in the DCO, shown on the Land Plans. The Order land is the same area as the Project Land.
Order limits	The area in which consent to carry out works is sought in the DCO, the area is split into different Work Numbers which are set out Schedule 1 to the DCO and shown on the Works Plans. The Order limits is the same area as the Site .
PA 2008	Planning Act 2008. An Act which provides the need for and the powers to apply for and grant development consent orders ('DCO') for nationally significant infrastructure projects ('NSIP').
PEA	Preliminary Ecological Appraisal (PEA Report – report establishing baseline conditions and evaluating the importance of any ecological features present.
PEI	Preliminary Environmental Information – an initial statement of the main environmental information available for the study area.
PEIR	Preliminary Environmental Information Report – a report outlining the preliminary environmental information and which is published during the pre-application consultation on a NSIP.
PHE	Public Health England – an executive agency, sponsored by the Department of Health, to protect and improve the nation's health and wellbeing and reduce health inequalities.
PINS	Planning Inspectorate – executive agency of the Ministry of Housing, Communities and Local Government of the United Kingdom Government. It is responsible for examining applications

Abbreviation	Description
	for NSIPs, and reporting to the Secretary of State who makes a final decision on such applications.
PPG	Planning Practice Guidance – guidance expanding upon and supporting the NPPF.
Project Land	The land required for the Proposed Development (the Site) and the land comprising the Existing Gas Pipeline Site. The Project Land is the same as the 'Order land' (in the DCO).
Proposed Development	The construction, operation and maintenance of a new gas-fired electricity generating station with a gross output capacity of up to 299 MW, including electrical and gas supply connections, and other associated development.
PRoW	Public Right of Way
SAC	Special Area of Conservation – High quality conservation sites that are protected under the European Habitats Directive, due to their contribution to conserving those habitat types that are considered to be most in need of conservation.
SHBSES	South Humber Bank Strategic Employment Site
SINC	Site of Nature Conservation Interest
Site	The land required for the Proposed Development, and which is the same as the 'Order limits' (in the DCO).
SoCC	Statement of Community Consultation
SoS	The Secretary of State – the decision maker for DCO applications and head of a Government department. In this case the SoS for the Department for Business, Energy & Industrial Strategy (formerly the Department for Energy and Climate Change).
SPA	Special Protection Area – strictly protected sites classified in accordance with Article 4 of the EC Birds Directive. Special Protection Areas are Natura 2000 sites which are internationally important sites for the protection of threatened habitats and species.
SSSI	Site of Specific Scientific Interest – nationally designated Sites of Special Scientific Interest, an area designated for protection under the Wildlife and Countryside Act 1981 (as amended), due to its value as a wildlife and/or geological site.
SUDS	Sustainable Urban Drainage System
SWMP	Site Waste Management Plan (SWMP)
TA	Transport Assessment
TCPA 1990	Town and Country Planning Act 1990 (as amended) – the Act that regulates the majority of development of land in England and Wales, but which is not directly applicable to this proposed development as it is a NSIP, regulated by the Planning Act 2008.
Temporary Construction and Laydown	Work No. 3 – temporary construction and laydown areas comprising hard standing, laydown and open storage areas, contractor compounds and staff welfare facilities, vehicle parking, roadways and haul routes, security fencing and gates, gatehouses, external lighting and lighting columns. There are three construction and laydown areas included in the Application.
Temporary Construction and Laydown Site	Land Required for Work No. 3.

Abbreviation	Description
TLOR	Total Lindsey Oil Refinery
UAEL	Unacceptable Observed Effect Level
Utilities and Services Connections	Work No 6 – utilities and services connections to the OCGT Power Station.
Utilities and Services Connections Site	The land required for Work No.6 – the land required for the utilities and services connections to the OCGT Power Station.
Vitol	Vitol Group – the owner of VPI LLP and VPIB.
VPIB	VPI Immingham B Limited – the Applicant
VPI EPA	VPI Energy Park A – the land proposed for the development of a 49.9 MW gas-fired power station that benefits from planning permission granted by NLC in 2018 (Reference: PA/2018/918).
VPI LLP	VPI Immingham LLP – the owner and operator of the Existing VPI CHP Plant.
WCA	The Wildlife and Countryside Act 1981 – legislation for the protection of animals, plants and certain habitats in the UK.
WHO	World Health Organisation
Work No.1	An OCGT power station (the 'OCGT Power Station') with a gross capacity of up to 299MW.
Work No.2	Access works (the 'Access Site'), comprising access to the Main OCGT Power Station Site and access to Work Nos. 3, 4, 5 and 6.
Work No.3	Temporary construction and laydown area (the 'Temporary Construction and Laydown') comprising hard standing, laydown and open storage areas, contractor compounds and staff welfare facilities, vehicle parking, roadways and haul routes, security fencing and gates, gatehouses, external lighting and lighting columns;
Work No.4	An underground and overground gas pipeline (the 'Gas Connection') of up to 600 mm (nominal internal diameter) for the transport of natural gas to Work No. 1.
Work No.5	An electrical connection (the 'Electrical Connection') of up to 400 kilovolts and control systems.
Work No.6	Utilities and services connections (the 'Utilities and Services Connections').
WSI	Written Scheme of Investigation – a method statement or a project design to cover a suite of archaeological works for a site.

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1. INTRODUCTION

1.1 Overview

- 1.1.1 This report has been prepared on behalf of VPI Immingham B Ltd ('VPIB' or the 'Applicant'). It forms part of the application (the 'Application') for a Development Consent Order (a 'DCO') submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy under section 37 of the Planning Act 2008' (the 'PA 2008').
- 1.1.2 VPIB is seeking development consent for the construction, operation and maintenance of a new gas-fired electricity generating station with a gross output capacity of up to 299 megawatts ('MW'), including electrical and gas supply connections, and other associated development (the 'Proposed Development'). The Proposed Development is located primarily on land (the 'Site') to the north of the existing VPI Immingham Power Station, Rosper Road, South Killingholme, North Lincolnshire, DN40 3DZ.
- 1.1.3 A DCO is required for the Proposed Development as it falls within the definition and thresholds for a 'Nationally Significant Infrastructure Project' (a 'NSIP') under section 14(1)(a) and sections 15(1) and 15(2) of the PA 2008. The DCO, if made by the SoS, would be known as the 'The Immingham Open Cycle Gas Turbine Order' (the 'Order').

1.2 VPI

- 1.2.1 VPI Immingham LLP ('VPI LLP') owns and operates the existing VPI Immingham Power Station, one of the largest combined heat and power ('CHP') plants in Europe, capable of generating 1,240 MW (about 2.5% of UK peak electricity demand) and up to 930 tonnes of steam per hour (hereafter referred to as the 'Existing VPI CHP Plant'). The steam is used by nearby oil refineries to turn crude oil into products, such as gasoline. The land comprising the Existing VPI CHP Plant is hereafter referred to as the 'Existing VPI CHP Plant Site'.
- 1.2.2 VPI LLP is a wholly owned subsidiary of the Vitol Group ('Vitol'), founded in 1966 in Rotterdam, the Netherlands. Since then Vitol has grown significantly to become a major participant in world commodity markets and is now the world's largest independent energy trader. Its trading portfolio includes crude oil, oil products, liquid petroleum gas, liquid natural gas, natural gas, coal, electricity, agricultural products, metals and carbon emissions. Vitol trades with all the major national oil companies, the integrated oil majors and independent refiners and traders. For further information on VPI LLP and Vitol please visit:

<https://www.vpi-i.com/>
- 1.2.3 VPIB has been formed as a separate entity for the purposes of developing and operating the Proposed Development.

1.3 The Site

- 1.3.1 The Site is primarily located on land immediately to the north of the Existing VPI CHP Plant Site, as previously stated. Immingham Dock is located approximately 1.5 kilometres ('km') to the south east of the Site at its closest point. The Humber ports

facility is located approximately 500 metres ('m') north and the Humber Refinery is located approximately 500m to the south.

- 1.3.2 The villages of South Killingholme and North Killingholme are located approximately 1.4 km and 1.6 km to the west of the Site respectively, and the town of Immingham is located approximately 1.8 km to the south east. The nearest residential property comprises a single house off Marsh Lane, located approximately 325 m to the east of the Site.
- 1.3.3 The Site comprises the following main parts:
- OCGT Power Station Site;
 - Access Site;
 - Temporary Construction and Laydown Site;
 - Gas Connection Site;
 - Electrical Connection Site; and
 - Utilities and Services Connections Site.
- 1.3.4 The Site is located entirely within the boundary of the administrative area of North Lincolnshire Council ('NLC'), a unitary authority. The different parts of the Site are illustrated in the Works Plans (Application Document Ref: 4.3).
- 1.3.5 The Site has been selected by the Applicant for the Proposed Development, as opposed to other potentially available sites, for the following reasons:
- it comprises primarily of previously developed or disturbed land, including land within the operational envelope of the Existing VPI CHP Plant Site;
 - it is situated in an industrial setting with few immediate receptors and is not particularly sensitive from an environmental perspective;
 - it is primarily located adjacent to the Existing VPI CHP Plant, which provides visual screening and synergies in terms of the existing workforce, and utilities and service connections;
 - it benefits from excellent grid connections (gas and electricity) on the Existing VPI CHP Plant Site; and
 - it benefits from existing highway accesses onto Rosper Road, with the latter providing a direct connection (via a short section of Humber Road) to the Strategic Highway Network (A160) a short distance to the south of the Site.
- 1.3.6 A more detailed description of the Site is provided in Environmental Statement ('ES') Volume 1 Chapter 3 'Site Description' (Application Document Ref: 6.2.3).

1.4 The Existing Gas Pipeline

- 1.4.1 In addition to the Site, the Application includes provision for the use of an existing gas pipeline (the 'Existing Gas Pipeline') to provide fuel to the Proposed Development. The Existing Gas Pipeline was originally constructed in 2003 to provide fuel to the

Existing VPI CHP Plant. The route of the pipeline runs from a connection point at an above ground installation (the 'Existing AGI Site') within the Existing VPI CHP Plant Site to a tie in point at the existing National Grid ('NG') Feeder No.9 pipeline located to the west of South Killingholme.

- 1.4.2 A small part of the Existing Gas Pipeline Site lies within the administrative area of North East Lincolnshire District Council ('NELC'), the neighbouring local authority.
- 1.4.3 The Applicant is not seeking consent to carry out any works to the Existing Gas Pipeline and, as a result, it does not form part of the Site or Proposed Development. It is included in the Application on the basis that the Applicant is seeking rights to use and maintain the pipeline and it is therefore included within the DCO 'Order land' (the area over which powers of compulsory acquisition or temporary possession are sought). The area of land covered by the Existing Gas Pipeline, including a 13 m stand-off either side of it to provide for access and any future maintenance requirements, is hereafter referred to as the 'Existing Gas Pipeline Site'.
- 1.4.4 The Site and the Existing Gas Pipeline Site are collectively referred to as the 'Project Land'. The area covered by the Project land is illustrated in the Location Plan (Application Document Ref: 4.1).
- 1.4.5 The Existing Gas Pipeline has not been assessed as part of the Environmental Impact Assessment ('EIA') carried out in respect of the Application. This is on the basis that it is a pre-existing pipeline and the Applicant is not seeking consent to carry out any works to it. Further explanation in respect of this matter is provided in ES Volume 1, Chapter 1 'Introduction' and Chapter 3 'Site Description' (Application Document Refs: 6.2.1 and 6.2.3).

1.5 The Proposed Development

- 1.5.1 The main components of the Proposed Development are summarised below, as set out in the draft DCO (Application Document Ref: 2.1):
- Work No. 1 – an OCGT power station (the 'OCGT Power Station') with a gross capacity of up to 299MW;
 - Work No. 2 – access works (the 'Access'), comprising access to the OCGT Power Station Site and access to Work Nos. 3, 4, 5 and 6;
 - Work No. 3 – temporary construction and laydown area ('Temporary Construction and Laydown') comprising hard standing, laydown and open storage areas, contractor compounds and staff welfare facilities, vehicle parking, roadways and haul routes, security fencing and gates, gatehouses, external lighting and lighting columns;
 - Work No. 4 – gas supply connection works (the 'Gas Connection') comprising an underground and/or overground gas pipeline of up to 600 millimetres (nominal internal diameter) and approximately 800 m in length for the transport of natural gas from the Existing Gas Pipeline to Work No. 1;
 - Work No. 5 – an electrical connection (the 'Electrical Connection') of up to 400 kilovolts and associated controls systems; and

- Work No 6 – utilities and services connections (the 'Utilities and Services Connections').
- 1.5.2 It is anticipated that subject to the DCO having been made by the SoS and a final investment decision by VPIB, construction work on the Proposed Development would commence in early 2021. The overall construction programme is expected to last approximately 21 months and is anticipated to be completed in late 2022, with the Proposed Development entering commercial operation later that year or early the following year.
- 1.5.3 A more detailed description of the Proposed Development is provided at Schedule 1 'Authorised Development' of the draft DCO (Application Document Ref: 2.1) and ES Volume 1, Chapter 4 'The Proposed Development' (Application Document Ref: 6.2.4).
- 1.5.4 The areas within which each of the main components of the Proposed Development are to be built are shown by the coloured and hatched areas on the Works Plans (Application Document Ref: 4.3).

1.6 The purpose and structure of this document

- 1.6.1 This document provides a written summary of the Applicant's oral case at the Issue Specific Hearing ('ISH') on Environmental Matters held at 10am on 3 October 2019. This document has been submitted for Deadline 3 of the Examination (10 October 2019).

2. WRITTEN SUMMARY OF APPLICANT'S ORAL CASE

2.1 Introductory Remarks

- 2.1.1 The ISH on Environmental Matters was held at 10am on 3 October 2019 at The Ashbourne Hotel, Vicarage Lane, North Killingholme, North Lincolnshire, DN40 3JL.
- 2.1.2 The main purpose of the ISH was to consider the environmental effects of the application.
- 2.1.3 The ISH took the form of running through the Examining Authority's ('ExA') agenda published on 13 September 2019.

2.2 The Applicant (participants)

- 2.2.1 The Applicant:
- Marvin Seaman, VPI
 - Nick McDonald, Pinsent Masons
 - Richard Lowe, AECOM
 - James Riley, AECOM
 - Jake Barnes-Gott, DWD

2.3 Applicant's Summary of Oral Case

2.3 – Applicant's Summary of Oral Case

ITEM	MATTERS	SUMMARY OF ORAL CASE
1.	Welcome, introductions and arrangements for the Hearing	N/A
2.	Issues arising from the responses to the ExA's Written Questions (PD-007) on Environmental Issues and from Written Representations. <p>i) Cultural Heritage</p> <ul style="list-style-type: none"> • Framework Written Scheme of Investigation <ul style="list-style-type: none"> - Timing of archaeological strip map and record. - Other concerns 	<p>The Applicant has been discussing NLC's comments in respect of the Framework WSI and the requirements. The Applicant has made changes to the Framework WSI consisting primarily of clarifications of timescales (including providing for a Method Statement to be agreed by NLC in advance of the archaeological works) and a new section of protection of asset A6 beneath the construction laydown area. NLC confirmed that the required changes to the Framework WSI were minor and the Applicant confirmed in the Hearing that agreement had been reached with the NLC Heritage Officer on the revised wording.</p> <p>In discussions with the NLC the Applicant has also agreed to update Requirement 14 (CEMP) so that the final CEMP must include details relating to the fencing and protection of asset A6, in accordance with the strategy set out in section 14 of the Framework WSI.</p> <p>These matters are now agreed with NLC.</p>
	<p>ii) Noise</p> <ul style="list-style-type: none"> • Operational Noise Restriction (Requirement 19 dDCO) 	<p>The Applicant set out that an operational noise limit (Rating Level) had been proposed in the draft DCO based on +5 dB above then Background Sound Level is intended to avoid 'significant adverse impacts' as defined by BS 4142, in accordance with the Applicant's EIA methodology. Whilst the Environmental Statement noise assessment (Document 6.2.8) predicts a level lower than +5dB, this is based on the concept design and not the detailed design. The Applicant therefore considers that the requirement to achieve no more than +5dB is a proportionate and appropriate control, bearing in mind the terms of BS 4142. Any change in noise level over the background of less than 5dB is considered to be minor adverse, particularly given that a +3dB penalty has been applied in the</p>

ITEM	MATTERS	SUMMARY OF ORAL CASE
		<p>assessment to take into account the potential intermittency of the operation of the Proposed Development.</p> <p>At the Hearing, the Environment Agency confirmed that they had reviewed the noise assessment that had been prepared to support the Environmental Permit application and that they agreed with the methodology that had been applied and the conclusions of the assessment presented. They also advised that they would be including a pre-operational permit improvement condition requesting a report from the Operator at the detailed design stage demonstrating that Best Available Techniques had been demonstrated regarding the control of operational noise from the installation.</p> <p>NLC have requested an operational noise limit (Rating Level) based on +3 dB above the Background Sound Level. The Applicant is content to include this as an aspiration and to secure this in the requirement, however commitment to a +3dB at this stage is not considered possible for the reasons set out above. The Applicant has proposed a variation to Requirement 19 and discussions with NLC on this point are ongoing.</p> <p>The Applicant also clarified that the closest residential noise sensitive receptor to the Site is located 325m from the Site boundary or 650m from the location proposed for the operational power station.</p> <p><i>[Post-hearing note: see the Applicant's revised Draft DCO (Document 2.7) in which requirement 19 has been updated]</i></p>
	iii) Piling	<p>The Applicant responded to the ExA's question on the approach that has been used to assess piling noise from the construction of the Proposed Development by explaining that a quantitative construction noise assessment had been included taking into account the standard control measures outlined in Section 8 of Chapter 8 of the Environmental Statement and those measures outlined in BS5228. This demonstrated that no significant effects were predicted on the identified Noise Sensitive Receptors and this</p>

ITEM	MATTERS	SUMMARY OF ORAL CASE
		<p>was also considered as part of the No Significant Effects Report submitted with the Application when low noise piling methods were employed.</p> <p>The Applicant stated that they recognised that further clarification was requested by Natural England and the ExA on the use of piling – and the choice of piling technique – so it was confirmed at the Hearing that further clarification had been provided in writing to Natural England and that correspondence on the point was ongoing. It was also outlined by the Applicant that it could confirm that no significant effect at any receptor – including the functionally linked Rosper Road fields - results from the use of any piling technique at the Site through the use of noise control techniques, or, if required, seasonal constraints on the timing of piling works at the Site. It was recognised by the Applicant that the use of additional noise control techniques or seasonal constraints could constitute mitigation and therefore, adopting a precautionary approach under the Habitats Regulations, the Applicant proposed to submit a Statement to Inform Appropriate Assessment to Natural England to review and agree through an updated Statement of Common Ground. It was confirmed that this statement would also be submitted into the examination process.</p> <p>The ExA questioned how likely it was the piling would be required for the construction of the Proposed Development and the Applicant agreed to provide clarification on this matter at Deadline 3.</p> <p><i>[Post-hearing note: the Applicant has provided a note which provides detail on the likelihood of piling. It is attached to this document at Appendix 1.]</i></p>
	Iv) Alternatives/Site selection	<p>The ExA queried a potential error in a document submitted by the Applicant at Deadline 2. The Applicant confirmed that reference to 'nuclear' in the Applicant's response to the ExA's written questions (Q1.14.2 – Application Document 7.2) submitted at Deadline 2 is indeed an error. The ExA accepted this and confirmed that the clarification had been sought to ensure it is on record.</p>

ITEM	MATTERS	SUMMARY OF ORAL CASE
		<p>The ExA then queried the extent of the Applicant's site selection exercise set out in the Application, in terms of whether it includes detail of any alternative sites considered. The Applicant confirmed that the Application does not include consideration of the Site relative to a long-list or short-list of named alternative sites. However, the site selection process and consideration of alternatives set out in the Application has been carried out in accordance with relevant legislation and guidance, including the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and relevant national policy statements.</p> <p>The Applicant confirmed that the Application sets out specific reasons why the Site has been selected relative to other theoretical alternatives. The reasoning is set out in the Planning Statement and ES Volume I, Chapter 4 (Application Document Refs: 5.3 and 6.3.4).</p> <p><i>[Post-hearing note: the Applicant has provided a note which identifies relevant legislative and policy requirements relating to site selection and alternatives to assist the Examining Authority. It is attached to this document at Appendix 2.]</i></p>
3.	<p>Matters for Clarification:</p> <ul style="list-style-type: none"> Foul and surface water drainage 	<p>Agreement has been reached with the Environment Agency on foul water disposal, with further discussions with Anglian Water planned during the detailed design stage, and an alternate solution agreed in the event that disposal to sewer remains as not feasible.</p> <p>Requirements relating to foul and surface water have been separated as agreed with the EA, to reflect the fact that control of surface water in respect of flooding does not fall within the EA's remit.</p> <p>These matters are now agreed with the EA.</p>
	<ul style="list-style-type: none"> Update on Environmental Permit 	<p>The Applicant noted the Environment Agency's update that the environmental permit application was duly made as of 25 April (notified on 20 August), that there are no fundamental concerns with the application, and that determination of the permit is likely by the end of October 2019.</p>

ITEM	MATTERS	SUMMARY OF ORAL CASE
4.	Update on Statements of Common Ground	<p>The ExA thanked the Applicant for the Statement of Commonality (Document Ref: 8.10) submitted at Deadline 2. It has been noted that some issues remain to be resolved with Natural England and Able. The ExA queried when it is envisaged the outstanding matters with Natural England will be resolved.</p> <p>The Applicant confirmed that it is hoped the matters will be resolved in the next few days.</p> <p>The Applicant confirmed that there have been some updated to the Statement of Commonality submitted at Deadline 2.</p> <p>The Applicant also noted that there are matters relating to operational noise that need to be picked up with NLC. Specifically, in relation to operational noise (Requirement 19). An update will be provided at Deadline 3.</p>
5.	Other Matters	No matters were raised.
6.	Close of the Hearing	N/A

2.4 Close

2.4.1 The hearing closed at 10.47am.

APPENDIX 1: PILING NOTE

The need for piling is determined by several factors including the location, weight and footprint of the equipment to be built and the site ground conditions. The former is well understood as the contractor has the plant design data and therefore knows the pressure exerted on the ground by the new infrastructure. The ground conditions are determined through a site investigation and geotechnical study, undertaken as part of the detailed design of the Proposed Development after grant of the DCO. The study identifies numerous factors including the depth to bedrock, the type and depth of the geological strata, aquifer and perched water locations, any contamination locations, ground water flow and ground load bearing capability.

The contractor uses the study data to determine if the ground load bearing capability is sufficient for a non-piled foundation design or if piling is indeed required. If piling is likely to be required, it is then determined if the plant layout can be adapted to avoid or minimise piling. Assuming piling is required, the contractor will at this point also determine where it is required, what type (e.g. end-loading, friction, or a combination of both) what size, and how many. The contractor will consider any piling related risks associated with subterranean water courses, contamination locations and any other services that may be on the site, and incorporate any mitigation into the design.

The selection of piling installation process involves consideration of various factors, such as environmental and health and safety considerations (such as noise and vibration for relevant receptors, including the workforce on site), number and type of piles, equipment access and programme. Because of the number of factors involved and risks associated with developing the correct foundation design, a decision on piling (a requirement for it and the type) can only be taken at detailed design stage by the design contractor.

Alongside these processes the contractor and VPIB would be using the information to prepare draft submissions pursuant to the requirements, in particular the Construction Environmental Management Plan (requirement 14) and the piling and penetrative foundation design method statement (requirement 20).

It is therefore not known with certainty at this stage whether piling will be required, as a contractor has not been appointed nor a detailed design study and associated site geotechnical investigation performed. However it is anticipated that the largest equipment with the highest ground loading pressure in a typical OCGT installation, such as the gas turbine building, would likely require piling due to its weight and footprint. The need for piling for this building, and others where necessary, would be considered at the detailed design stage.

APPENDIX 2: SITE SELECTION NOTE

The purpose of this note is to provide further information on the Applicant's response to item 2, matter iv) 'alternatives/selection' at the Issue Specific Hearing on Environmental Matters. Specifically, this note considers the legislation and policy which the Applicant has had regard to in scoping the consideration of alternatives and site selection in the Application, and which are relevant to the Secretary of State's decision on the Application.

The Applicant had regard to the following:

- the Planning Act 2008 ('PA 2008');
- the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ('EIA Regulations'); and
- the Habitats Directive and associated Regulations (adopted 1992).

The above are covered in turn in the remainder of this note. Matters relating to alternatives in the context of compulsory acquisition are covered in the Applicant's Statement of Reasons (Document 3.2) and in the Applicant's Comments on the Written Representations (Document 7.6) where relevant points are raised by interested parties.

PA 2008

Section 104(2) of the PA 2008 states that in deciding the application the Secretary of State must have regard to any national policy statement ('NPS') which has effect in relation to the development proposed. Section 104(3) also provides that the Secretary of State must determine the Application in accordance with any relevant NPS, except to the extent that one of sub-sections (4) to (8) applies. The Applicant therefore considered policy relating to the consideration of alternatives and site selection in the following, relevant NPSs:

- the Overarching NPS for Energy ('EN-1');
- the NPS for Fossil Fuel Electricity Generating Infrastructure ('EN-2');
- the NPS for Gas Supply Infrastructure and Gas and Oil Pipelines ('EN-4'); and
- the NPS for Electricity Networks Infrastructure ('EN-5').

Paragraph 4.4.1 of NPS EN-1 confirms that the NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option.

Paragraph 4.4.2, however, goes on to state that "*applicants are obliged to include in their ES, as a matter of fact, information about the main alternatives they have studied*". This matter is discussed in the next sub-section under 'EIA Regulations'. Paragraph 4.4.2 also states that "*in some circumstances there are specific legislative requirements, notably under the Habitats Directive, for the IPC to consider alternatives*". This matter is discussed in the final sub-section 'Habitats Directive'.

It follows that NPS EN-1 does not set out any general, formally prescribed process for site selection; however, paragraph 4.4.3 includes some useful guiding principles. These principles include that the consideration of alternatives should be 'proportionate' and 'realistic'.

NPS EN-2 provides the primary basis for decisions on applications for fossil fuels electricity generating stations, including gas-fired power stations such as the Proposed Development. The document provides additional policy guidance against which to assess such proposals. Section 2.2 outlines the factors influencing site selection for fossil fuel power stations. These include land use, size of site and transport infrastructure. The Applicant has had regard to these factors in the reasons provided in the Application for selecting the Site. It is notable, however, that in outlining such factors, paragraph 2.2.1 of NPS EN-2 makes clear that:

"...it is for energy companies to decide what application to bring forward and the Government does not seek to direct applicants to particular sites for fossil fuel generating stations".

In summary, the relevant NPSs do not include any general requirement to consider identified, alternative sites or a formal process for site selection. It is for the Applicant to determine what is proportionate and necessary, relative to the site that is being proposed.

EIA Regulations

Regulation 14(2)(d) of the EIA Regulations require that an ES include at least, amongst other things:

"a description of the reasonable alternatives studied by the applicant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the development on the environment"

The Applicant's approach to the assessment of reasonable alternatives is presented in Section 4.7 'Design Evolution and Alternatives' of ES Volume I, Chapter 4: Proposed Development (Application Document Ref: 6.2.4). This section explains how the Applicant has addressed the requirements of the EIA Regulations. It is particularly noted that Regulation 14(2)(d) is limited by reference to those *"reasonable alternatives studied by the applicant"*, and it is not therefore a general requirement to consider alternative sites. This is confirmed at paragraph 4.4.2 of NPS EN-1, which confirms that applicants are obliged to include in their ES, as a matter of fact, information about the main alternatives *"they have studied"*.

The requirements relating to the consideration of alternatives (and site selection) are comparable to the policy set out in the NPSs, in that the EIA Regulations do not include any general requirement to consider identified, alternative sites or a formal process for site selection. It is for the Applicant to determine what is reasonable and necessary, relative to the site that is being proposed.

Habitats Directive

Council Directive 92/43/EEC was adopted 21 May 1992 by the European Commission and is commonly known as the 'Habitats Directive'. The purpose of the Habitats Directive is to enhance Europe's biodiversity by protecting its most important habitats and species. This is achieved, in part, through the designation of protected sites. The Habitats Directive is primarily transposed in England under the Conservation of Habitats and Species Regulations 2017.

The Habitats Directive provides a derogation under article 6(4) which states that developments which may result in an adverse effect on the integrity of a European Site can only be authorised

once, amongst other things, *“There are no feasible alternative solutions to the plan or project which are less damaging”*.

Importantly, the Proposed Development does not trigger the above test because no adverse effects are anticipated on the integrity of a European Site. This is confirmed in the Applicant's No Significant Effects Report ('NSER') (Application Document Ref. 5.10), Statement to Inform Appropriate Assessment report ('SIAA') submitted at Deadline 3 of the Examination (Document Reference 7.13) and the Statement of Common Ground with Natural England (Document Reference: 8.4) submitted at Deadline 3 of the Examination.